IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

CRL.A.No. 583 of 2001(C)

CC.92/1995 of JUDL.MAGISTRATE OF FIRST CLASS-II(FOREST OFFENCES), MANJERI .

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PETITIONER/ COMPLAINANT

FOREST RANGE OFFICER,
NILAMBUR REP.BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

RESPONDENTS/ ACCUSED
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1. **K.M.ABDUL SALAM HAJI, S/O. AHAMMEDKUTTY, ANAKKAYAM.**

2. **ABDU, S/O. ABDUL HAKEEM, ANAKKAYAM, ERANADU.**

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 10/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.A.NO. 583 OF 2001

DATED THIS THE 10TH AUUST 2007

JUDGMENT

The appeal is field by the State over the decision of the court below in C.C.No. 92/1995 with respect to the offences under Sections 27(1)(e)(iii), (iv) and 27(1)(d) of the Kerala Forest Amendment Act on the allegation that on 5-10-1994 the accused trespassed into to the reserve forest, 1987 Teak Plantation at Panayamkode beat in Nilambur Range and cut and removed a Rose wood tree causing a loss of Rs.3500/- to the Government. The evidence adduced in the matter consisted of the testimony of Pws.1 to 5, DW1, Exts.P1 to P4 and D1 to D3 . The trial court acquitted the accused on the ground that DW1, the first accused has produced Ext.D3 sale deed with respect to the purchase of Rose wood tree and Ext.D2 pass with respect to transportation of the above tree cut. Further it was also found that the place where from the seizure has been made is 25 Kms. away from the place where the stump was found. Further more, there is no independent witnesses either to the cutting, loading etc. and as to the search conducted. The procedure stipulated under the Cr.P.C. for search and seizure has not been followed. No search memo or search list was prepared. In the circumstances and also considering

the fact that the incident is of the year 1994, I find that no interference is called for in the order of the court below. The appeal is dismissed.

K.R.UDAYABHANU, JUDGE

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K.R.UDAYABHANU, J

CRL.A. 583 of 2001
JUDGMENT

10-8-2007